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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/845,414	04/30/2001	David Reyna	40101/01801	2874
30636	7590	01/26/2006	EXAMINER	
FAY KAPLUN & MARCIN, LLP 150 BROADWAY, SUITE 702 NEW YORK, NY 10038			CHAVIS, JOHN Q	
			ART UNIT	PAPER NUMBER
			2193	

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/845,414	REYNA ET AL.	
	Examiner	Art Unit	
	John Chavis	2193	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 31 October 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-9 and 11-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-9 and 11-18 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

1. The 35 USC 112 second paragraph rejection, cited in the previous action in reference to claims 2 and 12 has been withdrawn.

Claim Rejections - 35 USC § 102

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-9, and 11-18 are rejected under 35 U.S.C. 102(e) as being anticipated by DeSilva et al. (6,493,868). The previous rejection will not be repeated; the applicant should refer to the previous action for its contents. The applicant's invention (for example, according to the broadest reasonable interpretation of claim 1) is merely generating a list of elements (a generic feature that is considered to be provided by the development of any software), extracting elements (a generic feature that is considered to be performed when displaying, examining, testing or executing code), and performing an operation on the extracted elements (another generic feature such as saving them as is, performing changes when tests results are not as expected or merely generating a report based on the execution results). Therefore, claim 1 can read on almost anything.

The applicant indicates that DeSilva's fig. 4 represents "an **editor** window for Viewing C **source code** (elements that are **generated**)... He further indicates that the editor window simply provides a **display** of the C source code (**extracts** desired elements). He further indicates that the figure does not distinguish between which

elements of the code are desired elements of a predetermined list; however, it is not clear which part of claim 1 does this either. Again, claim 1 generates a list of desired elements (which in its broadest reasonable interpretation can be all elements. Then, it extracts the desired elements (which again could be some or all elements) and performs an operation on the extracted elements (which as indicated above could be anything).

The applicant further indicates that "a desired element is an element of the command node that may be included on the generated list of predetermined elements to be extracted from the command node"; while, it is not clear which part of claim 1 is intended to teach this feature. It appears that the only this close to being predetermined (predefined) in claim 1 is the "command structure" and there is no mention of a node at all, let alone a command node. Also, the reference to the "review of the extracted elements from the command node being performed in order to determine if such element is one of the predetermined (desired) elements on the list" is not remotely provided for in claim 1. Therefore, the applicant's claim are not considered to provide for "reviewing extracted elements..." and therefore, no further discussion will be provided for non-claimed features. Furthermore, the feature of DeSilva of marking blocks to find the next match is considered sufficient to provide for the unclaimed feature of "reviewing the desired elements and performing an operation (matching)".

Response to Arguments

4. Applicant's arguments filed October 31, 2005 have been fully considered but they are not persuasive, as indicated above and the 35 USC 102 (e) rejection in view of DeSilva remains.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Chavis whose telephone number is (571) 272-3720. The examiner can normally be reached on M-Th, 8:30am-5:00pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (571) 272-3719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JC



John Chavis
Primary Examiner AU-2193